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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/583,344	08/04/2006	Mohamed Takhim	66345-041-7	3133
25269	7590	11/17/2009	EXAMINER	
DYKEMA GOSSETT PLLC			QIAN, YUN	
FRANKLIN SQUARE, THIRD FLOOR WEST				
1300 I STREET, NW			ART UNIT	PAPER NUMBER
WASHINGTON, DC 20005			1793	
			MAIL DATE	DELIVERY MODE
			11/17/2009	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/583,344	TAKHIM, MOHAMED	
	Examiner	Art Unit	
	YUN QIAN	1793	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 08 September 2009.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 2-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 2-15 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ . |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ . | 6) <input type="checkbox"/> Other: _____ . |

DETAILED ACTION

Status of Claims

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on September 8, 2009 has been entered.

Claims 2-15 remain for examination. Claims 12 and 15 have been amended. Claim 1 is previously canceled.

Previous Grounds of Rejection

Regarding Abstract, in the light of the amendment, the objection has been withdrawn.

Regarding claims 2-5, 7, 9-11 and 14-15, the rejection under 35 U.S.C.103 (a) as being unpatentable over Hauge et al. (US 3,919,395) stands as generally set in the final office action mailed on May 19, 2009.

Regarding claim 6, the rejection under 35 U.S.C. 103(a) as being unpatentable over combined references of Hauge et al. (US 63,919,395) and Loewy et al (US 3,988,420), further in view of Dickey (<http://iove.geol.niu.edu/faculty/dickey/hcl.html>) stands as generally set forth in the final office action mailed on May 13, 2009.

Regarding claim 8, the rejection under 35 U.S.C. 103(a) as being unpatentable over Hauge et al. (US 63,919,395) further in view of Loewy et al (US 3,988,420) stands as generally set forth in the final office action mailed on May 13, 2009.

Regarding claims 12-13, the rejection under 35 U.S.C.103 (a) as being unpatentable over the references as combined (Hauge et al. and Loewy et al), further in view of Watanabe et al (US 4,113,588) stands.

Response to Arguments

With regards to the previous Grounds of Rejection

The Remarks and the Declaration under 37 CFR 1.132 filed on September 8, 2009 is insufficient to overcome the rejection of claims 2-15 based upon rejections as set forth in the last Office action because:

Regarding claim 15, the word “comprising” transitioning from the preamble to the entire applicant’s claim is open-ended. It is the position of the Examiner to interpret that the applicant’s claim encompasses other steps such as filtration taught by Hauge et al. The following is a quotation of MPEP 2111.03 which forms the basis for the rejection.

“The transitional phrases “comprising”, “consisting essentially of” and “consisting of” define the scope of a claim with respect to what unrecited additional components or steps, if any, are excluded from the scope of the claim. The transitional term “comprising”, which is synonymous with “including,” “containing,” or “characterized by,” is inclusive or open-ended and does not exclude additional, unrecited elements or method steps.” “In Gillette Co. v. Energizer Holdings Inc., 405 F.3d 1367, 1371-73, 74 USPQ2d 1586, 1589-91 (Fed. Cir. 2005), the court held that a claim to “a safety razor

blade unit comprising a guard, a cap, and a group of first, second, and third blades” encompasses razors with more than three blades because the transitional phrase “comprising” in the preamble and the phrase “group of” are presumptively open- ended. “The word comprising’ transitioning from the preamble to the body signals that the entire claim is presumptively open-ended.”

Regarding the data submitted in the Declaration, the comparison experiments carried out at temperature 60 $^{\circ}$ C which is not in the scope of the claims.

In addition, these experiments only carried out in one point of the claimed ranges (29% P₂O₅ used, 6% HCl, pH=1.1 and 3.2, etc.), not the starting and end points of the claimed range. Thus, there is no showing that the objective evidence of nonobviousness is commensurate in scope with the claims. See MPEP § 716.

Furthermore, in order to demonstrate the “unexpected results”, experiments are also need to run right outside of the claimed ranges.

For example regarding claim 2, applicants are needed to compare the results of the present application with Hauge’s method, both in the claimed range of pH 0.8-4, and at right outside of pH ranges, i. e. pH<0.8 and pH> 4.0.

Similar requirements are also applied to the claim 3, wherein applicants are needed to provide the unexpected results at pH≤ 4.5 and pH>4.5.

In view of the foregoing, when all of the evidence is considered, the totality of the rebuttal evidence of the critical sequence of neutralization and filtration fails to outweigh the evidence of obviousness. Therefore, the rejection with respect to claims 2-15 under 35 U.S.C.103 (a) as set forth in the last office action stands.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to YUN QIAN whose telephone number is (571)270-5834. The examiner can normally be reached on Monday-Thursday, 10:00am -4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jerry Lorengo can be reached on 571-272-1233. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/J.A. LORENGO/
Supervisory Patent Examiner, Art Unit 1793

/YUN QIAN/
Examiner, Art Unit 1793